

INTERNAL USE ONLY

6 August 1969

MEMORANDUM FOR THE RECORD

SUBJECT: Conversation with Mr. Larry Conrad, Chief Counsel,
Subcommittee on Constitutional Amendments re S. 782

1. Mr. Larry Conrad, Chief Counsel, Subcommittee on Constitutional Amendments, called last evening and requested that the following changes be considered to the proposed amendment to S. 782 which was forwarded to him during the day:

- a. Whether or not we could include the word "applicant" along with the word "employee"
- b. Whether or not we might insert language "or final action is taken that is determined by the employee to be adverse"
- c. "Provided that procedures exist for the adjudication of employees complaints within a period of 120 days."

Mr. Warner responded this morning and discussed the changes with him. Mr. Conrad was as interested in getting a feel for the Agency's position on the three points as he was in the actual wording to be used since it appeared to him that some discussion of the points would take place during the Subcommittee meeting this morning. Mr. Warner agreed with Mr. Conrad to the following changes:

- a. The words "or applicants for employment with" be inserted before the words "such agencies" in line seven of the draft amendment.
- b. The words "or applicants to" before the words "any agency" be inserted in line three of the second proviso of the proposed amendment.

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c. Delete the words "adverse decision has been rendered in writing" in the third proviso and insert the words "action taken" in lieu thereof and the words "that is determined by the employee or applicant to be adverse" at the end of the third proviso.

Mr. Warner and Mr. Conrad discussed the utilization of the Agency's grievance procedures and determination of grievances by the Director of Central Intelligence mentioned in the third proviso. To support Mr. Conrad in later discussion a copy of [REDACTED] was forwarded to him with the understanding that it not be used in the record and that it be returned to us after it has served its purpose.

STATINTL

2. Mr. Conrad advised that the Subcommittee staff would like to include the words "except where inconsistent with this Act" at the end of the fourth proviso. Mr. Warner responded with an unequivocal no -- that such wording would negate the inclusion of the references set forth in the fourth proviso relating to the Director's authority under Section 102 (c) of the National Security Act and the authority of the Director of NSA in Title 50 of the Code. STATINTL



Assistant Legislative Counsel

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1. Whether or not we could include the word "applicant" along with the word "employee"
2. Whether or not we might insert language "or final action is taken that is determined by the employee to be adverse"
3. "Provided that procedures exist for the adjudication of employees complaints within a period of 120 days."

SUGGESTED EXEMPTION LANGUAGE TO S. 782

FIRST PREFERENCE:

This Act shall not apply to the Federal Bureau of Investigation, the Central Intelligence Agency, the National Security Agency, or any other agency, or to any office, bureau, or entity within an agency, performing primarily intelligence, investigative, or security functions if the head of the agency determines that the provisions of this Act cannot be applied in a manner consistent with national security requirements and considerations.

SECOND PREFERENCE

Page 19, following line 19, insert a new paragraph:

"8. Subsection 1(k) and Sections 4 and 5 of this Act shall not apply to the Federal Bureau of Investigation, the Central Intelligence Agency, the National Security Agency, or to any other agency, or to any office, bureau, or entity within an agency, performing primarily intelligence,

investigative, or security functions, or to persons employed
by, or detailed to, ^{or applicants for employment with} such agencies, if the head of the agency
determines that the above-specified provisions of this Act
cannot be applied in a manner consistent with national security
requirements and considerations: Provided, however, That
nothing contained in this Section shall be construed to prohibit
an employee of any agency contemplated by this Section, who
is under investigation for misconduct, from having present
during interrogation which could lead to disciplinary action,
or seeking advice and counsel of, a fellow employee of his
choice from such agency: Provided further, however, That
nothing contained in this Section shall be construed to prevent
an employee of ^{or applicant to} any agency contemplated by this Section
claiming to be affected or aggrieved by any violation or
threatened violation of this Act from filing a written complaint
with the Board on Employees' Rights: Provided further,
however, That such complaint may be filed only after all
procedures for adjudicating such complaints within the agency
concerned have been exhausted and a final ^{action taken} ~~adverse decision~~
~~has been rendered in writing~~ by the head of the agency concerned:
*that is determined by the employee or
applicant to be adverse*

And Provided further, That nothing in this Act shall affect or modify the authority of the Director of Central Intelligence as set forth in Section 102(c) of the National Security Act of 1947, as amended, or the authorities set forth in Subchapter III of Title 50 of the U. S. Code (P. L. 88-290). "

*[except when inconsistent with this Act]
No.*

(NOTE: Attention is called to the fact that the exemption from Sections 4 and 5 of the bill contemplated in each of the foregoing suggested amendments merely means that an aggrieved employee shall not have immediate access to the U. S. district court--it in no way interferes with his normal access to such court after exhausting administrative remedies.)

SECRET

PERSONNEL

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7. GRIEVANCE PROCEDURE

- a. **DEFINITION.** A grievance is an employee's expressed feeling (oral or written) of dissatisfaction with any aspects of his working conditions and relationships which are outside his control.
- b. **POLICY.** It is Agency policy that employees have the opportunity to present grievances for prompt and equitable consideration and disposition.
- c. **PROCEDURES**
 - (1) The immediate supervisor will attempt to bring about a satisfactory resolution of the employee's grievance. The employee may take any unresolved grievance up through the normal chain of command within his own component.
 - (2) If a satisfactory adjustment is not reached in the employee's own component, he may ask for a review of his case by the Director of Personnel.
 - (3) The employee, if still dissatisfied, may submit an appeal, through the Inspector General, to the Director of Central Intelligence whose decision is final.

SECRET